IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.A. Nos.227, 228, 229, 230 & 231 of 2003
Date of decision: 27.10.2006

The Commissioner of Income-tax, Chandigarh-II.

---Appellant

Vs.

M/s Punjab Communication Ltd., Mohali.

-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL

Present: Mr. S.K. Garg Narwana, Advocate
for the appellant.

ORDER:

These appeals have been preferred by the revenue against the order of the Income Tax Appellate Tribunal, Chandigarh dated 17.02.2003 in I.T.A. Nos. 228/Chandi/2000, 514/Chandi/1999, 514/Chandi/1999, 517/Chandi/1999 and 519/Chandi/1999 in respect of the assessment years 1996-97, 1992-93, 1992-93, 1994-95 and 1995-96 respectively proposing following questions of law:-

"1. Whether on the facts and in the circumstances of the case, the ITAT was right in law in rejecting the appeal of the revenue filed against the order of the CIT(A) in respect of order passed u/s 143(1)(b)/154 before deciding the appeal of the revenue on merit already filed against the order of CIT(A) in respect of order u/s 143(3) for the assessment years 1992-93.

2. Whether on the facts and in the circumstances of the case, the ITAT was right in law in stating that the revenue may consider the issue afresh u/s 143(1)(b) read with Section 154 of the Act for the year under consideration if the issue is decided by the Hon'ble ITAT on merits in favour of the revenue, whereas Section 143(1)(b), which was a procedural section, stands deleted by the Finance Act, 1999 w.e.f. 1.6.99."

The assessee claimed deduction under Section 80-I for expansion of its DTL unit which was allowed under Section 143(1)(a) of the Income-tax Act, 1961 (for short, "the Act"), but was later disallowed under Section 143(1)(b) read with Section 154 of the Act. It was observed that the expansion of the project was nothing but reconstruction and splitting of the existing business. This was done following disallowance for the earlier years. The CIT(A) allowed the claim following its order for the assessment year 1992-93. The Tribunal upheld the view of the CIT (A). The Tribunal observed that revenue's appeal against the order of CIT(A) allowing the claim on merits was pending and if the same was allowed, the issue could be reconsidered.

Learned counsel for the revenue has today filed a copy of letter dated 4/23.10.2006 of the Deputy Commissioner of Income-tax Circle 5(1), Chandigarh to the effect that the appeals of the revenue have been dismissed by the Tribunal on merits also relying upon judgment of the Hon'ble Supreme Court in ***Commissioner of Income-Tax, West Bengal-I v. Indian Aluminium Co. Ltd.*** (1977) 108 ITR 367 and the department has accepted the said order. The letter is taken on record as Mark-'X'.

In view of above, these appeals are dismissed.

(ADARSH KUMAR GOEL)
JUDGE

October 27, 2006 **(RAJESH BINDAL)**
ashwani **JUDGE**

This order will dispose of I.T.A. Nos.227, 228, 229, 230 & 231 of 2003. However, facts have been taken from I.T.A. No.227 of 2003.